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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,614	03/23/2006	Christophe Brisset	065691-0429	1954

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FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER
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HINDENLANG, ALISON L

ART UNIT	PAPER NUMBER
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1791

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06/19/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/563,614	<b>Applicant(s)</b> BRISSET ET AL.	
	<b>Examiner</b> ALISON HINDENLANG	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

1. Examiner has noted that claim 1 contains means plus function language in accordance with 35 U.S.C. 112 6<sup>th</sup> paragraph which reads:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

Examiner invokes 35 U.S.C. 112 6<sup>th</sup> paragraph for the purposes of claim interpretation in the instant application.

2. Examiner wishes to point out to applicant that claims 1-20 are directed towards an apparatus and as such will be examined under such conditions. The material worked upon and the process of using the apparatus are viewed as recitation of intended use and are given no patentable weight (Please see MPEP 2114 R1-2115 R2 for further details).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 3, 5-16, 19-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manning (US 4576619) and further in view of Korsch (DE 2363921) (both already of record).

6. With respect to claim 1, Manning teaches:

An installation comprising a machine for the production of tablets ("a housing...for accommodating powder processing machinery", column 1, lines 25-27), where the machine has at least one enclosure wherein the installation includes means for injecting a gas into the enclosure and to distribute it throughout the enclosure ("means for passing air at a predetermined rate through the apparatus", column 1, lines 30-31).

Manning does not teach:

said means being arranged so as to control the temperature of the gas at a predetermined location upstream of the enclosure in order to ensure that the temperature of the gas in the enclosure reaches a predetermined value.

In the same field of endeavor, climate control in powder processing, Korsch, in claim 4 and figures 3 and 4, discloses a thermally insulated cabin with an internal temperature sensor (64) linked to an air conditioning device (50) which controls the temperature of the air upstream of the cabin and is set to a predetermined value for the purpose of reducing operation fluctuations by better controlling operation conditions.

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("Within the climate chamber are located measuring probes 64, 65, and 66, which function as sensors for temperature, pressure, and humidity, ... be able to readjust the climate control unit to the set values", translation page 14, lines 9—7) It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the housing taught by Manning with the sensor and the air conditioning device taught by Korsch for the purpose of reducing operation fluctuations by better controlling operation conditions.

7. With respect to claim 3, Korsch discloses a thermally insulated cabin with an internal temperature sensor (64) linked to an air conditioning device (50) upstream of the cabin for the purpose of cooling the gas being provided to the cabin.

8. With respect to claim 5, Korsch teaches a thermally insulated cabin with an internal humidity sensor (66) linked to an air conditioning device (50) which is set to a predetermined value for the purpose of reducing operation fluctuations by better controlling operation conditions.

9. With respect to claim 6, Manning further teaches "wherein said means include at least one particle filter" ("an absolute filter 16" column 3, line 3, figure 1 and 2).

10. With respect to claim 7, Manning further teaches "wherein said means include at least one fan place upstream or downstream of the enclosure" ("air is blown into the housing 1 by fan 13", column 3, line 47, figures 1 and 2).

11. With respect to claim 8, Manning further teaches "wherein the enclosure includes devices for shaping of the tablets" ("a housing 1 containing a tableting machine 2", column 2, lines 54-55, figures 1 and 2)

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12. With respect to claim 9, Korsch further teaches a drive unit 8 with an electric motor 9 (page 6, lines 26-27) which are clearly contained within cabin 12 (figure 1) for the purpose of running the tablet press in the controlled environment.

With respect to claim 10, Korsch further teaches measuring probes 64, 65, and 66, which function as transmitters (page 10, paragraph 1) for the purpose of creating a control loop for maintaining operating conditions. Since the sensors are sending signals examiner considers them to be electronic devices.

13. With respect to claim 11, Manning further teaches “wherein the enclosures are at least two in number, and the machine includes means for injecting a gas into each enclosure and to distribute it” (“where two powder processing machines are working ... two separate compartments... connected in parallel to the source of air”, column 1 line 64 through column 2 line 1).

14. With respect to claim 12, Manning further teaches “wherein it includes gas conduits arranged to feed gas to the enclosures using a parallel arrangement” (“compartments can be connected in parallel to the source of air and to the collector”, column 1, line 68 to column 2, line 2).

15. With respect to claim 13, Manning further teaches “wherein the means are partially common to the enclosures” (“compartments can be connected in parallel to the source of air and to the collector”, column 1, line 68 to column 2, line 2).

16. With respect to claim 14, Manning further teaches “wherein said mean include at least one gas conduit connected so that it can be removed from the enclosure” (“the whole structure is constructed to be easily demountable”, column 3, line 43-44).

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17. With respect to claim 15, Manning further teaches "wherein it includes at least one stopper to interrupt the flow of gas between the enclosure and the remainder of the installation" ("motorized valve 12" column 2, lines 65-66, figures 1 and 2).

18. With respect to claim 16, Manning further teaches "wherein said means are arranged to control a flow of gas associated with the enclosure by allowing the choice of one flow from various non-zero flow values" ("when the pressure sensor 18 detects a pressure below a preset value ... they turn off fans 13 and 28", column 4, lines 5-7).

19. With respect to claim 19, this claim contains a recitation of intended use and does not further structurally limit the apparatus of claim 1 from which it depends.

Therefor claim 19 is rejected under the combination of Manning and Korsch as applied above.

20. With respect to claim 20, this claim contains a recitation of intended use and does not further structurally limit the apparatus of claim 1 from which it depends.

Therefor claim 20 is rejected under the combination of Manning and Korsch as applied above.

21. With respect to claim 21, Manning teaches:

A process for the production of tablets, wherein gas is injected into an enclosure that forms part of a machine for the production of tablets ("a housing...for accommodating powder processing machinery, the housing having an inlet leading to a source of air", column 1, lines 25-28), and is distributed throughout the enclosure ("means for passing air at a predetermined rate through the apparatus", column 1, lines 30-31),

Manning does not teach:

in that the temperature of the gas is controlled at a predetermined location upstream of the enclosure in order to ensure that the temperature of the gas in the enclosure reaches a predetermined value.

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In the same field of endeavor, climate control in powder processing, Korsch (DE 2363921) teaches:

in that the temperature of the gas is controlled at a predetermined location upstream of the enclosure in order to ensure that the temperature of the gas in the enclosure reaches a predetermined value.

In claim 4 and figures 3 and 4, Korsch discloses a thermally insulated cabin with an internal temperature sensor (64) linked to an air conditioning device (50) which controls the temperature of the air upstream of the cabin and is set to a predetermined value for the purpose of reducing operation fluctuations by better controlling operation conditions. ("Within the climate chamber are located measuring probes 64, 65, and 66, which function as sensors for temperature, pressure, and humidity, ... be able to readjust the climate control unit to the set values", translation page 14, lines 9—7) It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the housing taught by Manning with the sensor and the air conditioning device taught by Korsch for the purpose of reducing operation fluctuations by better controlling operation conditions.

22. With respect to claim 23, Manning teaches:

An installation comprising a machine for the production of tablets ("a housing...for accommodating powder processing machinery", column 1, lines 25-27), where the machine has at least one enclosure wherein the installation includes means for injecting a gas into the enclosure and to distribute it throughout the enclosure ("means for passing air at a predetermined rate through the apparatus", column 1, lines 30-31).

Manning does not teach:

said means being arranged so as to control the temperature of the gas at a predetermined location upstream of the enclosure in order to ensure that the temperature of the gas in the enclosure reaches a predetermined value.



In the same field of endeavor, climate control in powder processing, Korsch, in claim 4 and figures 3 and 4, discloses a thermally insulated cabin with an internal temperature sensor (64) linked to an air conditioning device (50) which controls the temperature of the air upstream of the cabin and is set to a predetermined value for the purpose of reducing operation fluctuations by better controlling operation conditions. ("Within the climate chamber are located measuring probes 64, 65, and 66, which function as sensors for temperature, pressure, and humidity, ... be able to readjust the climate control unit to the set values", translation page 14, lines 9—7) It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the housing taught by Manning with the sensor and the air conditioning device taught by Korsch for the purpose of reducing operation fluctuations by better controlling operation conditions.

23. Claims 2, 4 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Manning (US 4576619) and Korsch (DE 2363921) as applied to claims 1 and 21 above, and further in view of David (4601866) (already of record).

24. With respect to claim 2, the combination of Manning and Korsch does not teach:

wherein said means are arranged to control the temperature of the gas at the predetermined location, in order to ensure that the temperature at this location reaches a predetermined value.

In the same field of endeavor, climate control in powder processing, David teaches:

wherein said means are arranged to control the temperature of the gas at the predetermined location, in order to ensure that the temperature at this location reaches a predetermined value

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("chamber 50 is associated with heating or cooling unit 51", column 5, lines 10-11, figure 7).

for the purpose of maintaining operating temperature at all times. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine installation taught by the combination of Manning and Korsch by co-locating the temperature sensor and controlling device as taught by David for the purpose of maintaining operating temperature at all times.

25. With respect to claim 4, David further teaches "this chamber is connected to a heating or cooling unit or adjustable temperature" (column 2, lines 52-53) for the purpose of controlling the ambient temperature around a tableting machine in a simple way.

26. With respect to claim 22, the combination of Manning and Korsch does not teach: wherein the temperature of the gas is controlled at the predetermined location in order to ensure that the temperature at this location reaches a predetermined value.

In the same field of endeavor, climate control in powder processing, David teaches:

wherein the temperature of the gas is controlled at the predetermined location in order to ensure that the temperature at this location reaches a predetermined value. ("chamber 50 is associated with heating or cooling unit 51", column 5, lines 10-11, figure 7).

for the purpose of maintaining operating temperature at all times. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine installation taught by the combination of Manning and Korsch by co-locating the temperature sensor and controlling device as taught by David for the purpose of

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maintaining operating temperature at all times.

27. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Manning (US 4576619) and Korsch (DE 2363921) as applied to claim 1 above, and further in view of Shimada (US 3999922) (already of record).

28. With respect to claim 17, the combination of Manning and Korsch does not teach:

wherein said means include a diffusion box placed in the enclosure having at least two openings for entry of the gas into the enclosure.

In the same field of endeavor, climate control in powder processing, Shimada teaches:

wherein said means include a diffusion box placed in the enclosure having at least two openings for entry of the gas into the enclosure ("The post 44 has at its lower end a clean air inlet 49 communicating with the inlet duct 39 provided inside the stand frame 25 and with the interior of the quadrilateral frame 48. The quadrilateral frame 48 has a clean air outlet opening 50 in an inner side wall thereof", column 3, lines 46-47, figure 1).

for the purpose of providing clean air to the tablet press and the surrounding cabin. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the cabin taught by the combination of Manning and Korsch with a diffusion box as taught by Shimada for the purpose of providing clean air to the tablet press and the surrounding cabin.

29. With respect to claim 18, Shimada further teaches "inlet duct 39" (column 3, line 44) on "post 44" (column 3, line 42) and "clean air outlet opening 50" (column 3, line 46) on "quadrilateral frame 48" (column 3, line 46) which, as shown in figure 1, different faces of the air system for the purpose of providing clean air to the tablet press and the

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surrounding cabin.

### ***Response to Arguments***

30. Applicant's arguments filed 02/02/2009 have been fully considered but they are not persuasive.

31. Applicant argues that claim 23 as amended overcomes the anticipation rejection over Manning as previously applied. In light of said amendment, examiner has made a new rejection of obviousness over Manning and Korsch, as previously applied to claims 24 and 25 which were incorporated into amended claim 23.

32. Applicant argues that Korsch does not disclose the limitation "said means being arranged so as to control the temperature of the gas at a predetermined location upstream of the enclosure" and points to the non-binding written opinion of the IPEA found in the IPER for support. Examiner respectfully disagree with the interpretation provided by applicant.

33. In the first full paragraph on page 10 of the Korsch specification it is stated that the readings from the probes 64, 65, and 66 are used to readjust the climate control unit (translation page 14). Examiner understands this to mean that while the temperature is being measured within the enclosure changes to and control of the temperature of the injected gas are being made in the climate control unit, 50, which is upstream of the enclosure (figure 3). The first full paragraph on page 9 of Korsch (translation page 13) further provides evidence that the climate control unit is upstream of the enclosure ("the climate control unit is connected via the pipeline 52 to the air supply connection 53 of

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the cabinet 12, which is uniformly air conditioned by means of the connection of the climate control unit 50"). In reading claim 1 in totality, "said means being arranged so as to control temperature" refers back to "means for injecting". It is thus clear that the "means for injecting" cannot be a sensor as applicant seems to be arguing for the reference.

### ***Conclusion***

34. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALISON HINDENLANG whose telephone number is (571) 270-7001. The examiner can normally be reached on Monday to Thursday 7:30 - 5 pm; Every other Friday 7:30 - 4 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Tucker can be reached on 571-272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALH

/Philip C Tucker/  
Supervisory Patent Examiner, Art Unit 1791